

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Eva Perez,
Plaintiff
v.
Station Casinos LLC, et al.,
Defendants

2:15-cv-01553-JAD-NJK

**Order Overruling Plaintiff's
Objections to Magistrate Judge
Koppe's Order Staying Proceedings**

[ECF No. 30]

10 Eva Perez sues Paul Nelson and others for allegedly drugging and sexually assaulting her.¹
11 On February 8, 2016, Magistrate Judge Koppe stayed Perez's civil action pending Nelson's criminal
12 trial and bankruptcy. Perez objects to Judge Koppe's order, arguing that her unrelated claims under
13 the Family Medical Leave Act (FMLA) should proceed. Judge Koppe's order was based on an
14 incorrect factual assumption, and Judge Koppe stayed discovery to avoid duplicative discovery
15 without specifying what discovery would be duplicated. Because Judge Koppe's ruling is neither
16 clearly erroneous nor contrary to law, I overrule Perez's objections.

Discussion

A. Standard of review

A district judge reviews non-dispositive determinations made by a magistrate judge under a clearly erroneous or contrary-to-law standard.² “A finding is ‘clearly erroneous’ when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.”³ Review of legal conclusions to determine whether

¹ ECF No. 1 at ¶ 38.

² 28 U.S.C. § 636(b)(1)(A); FED. R. CIV. P. 72(a); LR IB 3-1 (“A magistrate judge may hear and finally determine any pretrial matter not specifically enumerated as an exception in 28 U.S.C. § 636(b)(1)(A).”).

³ *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948); *Burdick v. Comm'r Internal Rev. Ser'y*, 979 F.2d 1369, 1370 (9th Cir. 1992).

1 they are “contrary to law” is de novo.⁴

2 **B. Analysis**

3 Perez’s objections are overruled. Her first argument—that the parties agree that her FMLA
4 claim should proceed—misrepresents the record. In their reply to Perez’s opposition to their motion
5 to stay, defendants argued that discovery regarding Perez’s FMLA claim should proceed “[i]n the
6 event the Court is not inclined to grant a stay.”⁵

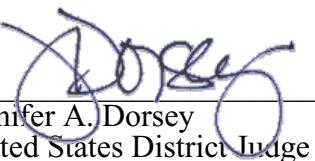
7 Perez’s second argument—that the order is based on the incorrect assumption that Perez
8 delayed filing a discovery plan and scheduling order—is inconsequential. Even if I were to assume
9 that Judge Koppe incorrectly found that Perez delayed filing a discovery plan and scheduling order,
10 that issue is only relevant to one of the five factors she applied. And that alone would be insufficient
11 to leave me with a “definite and firm conviction that a mistake has been committed.”⁶

12 I am also unpersuaded by Perez’s third argument, which asserts that Judge Koppe erred by
13 stating that a stay would prevent duplicative discovery without specifying what discovery would be
14 duplicated. The potential duplicative discovery is clearly laid out in Judge Koppe’s order: Nelson is
15 being prosecuted for the same assault that Perez alleges here. If discovery were to proceed here,
16 Nelson would likely invoke his Fifth Amendment right and require Perez to conduct additional
17 discovery after his criminal trial ends.

18 Accordingly, IT IS HEREBY ORDERED that plaintiff Eva Perez’s objections [ECF No. 30]
19 are **OVERRULED**.

20 Dated this 26th day of May, 2016

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Jennifer A. Dorsey
United States District Judge

⁴ *Osband v. Woodford*, 290 F.3d 1036, 1041 (9th Cir. 2002).

⁵ ECF No. 28 at 8–9.

⁶ *U.S. Gypsum Co.*, 333 U.S. at 395.